

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF OKLAHOMA**

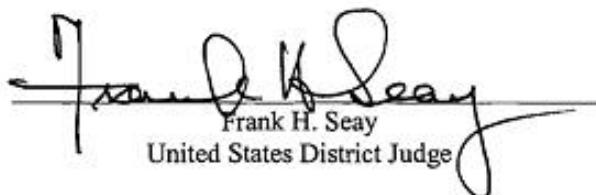
JAMES WESLEY BURKE,)
)
 Plaintiff,)
)
 v.) **No. CIV 09-310-FHS-SPS**
)
 McCURTAIN COUNTY, et al.,)
)
 Defendants.)

OPINION AND ORDER
DENYING SECOND MOTION FOR APPOINTMENT OF COUNSEL

Plaintiff has filed another motion requesting the court to appoint counsel [Docket No. 77]. He still bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)). The court again has carefully reviewed the merits of plaintiff's claims, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After considering plaintiff's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel still is not warranted. *See Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); *see also Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

ACCORDINGLY, plaintiff's second motion for appointment of counsel [Docket No. 77] is DENIED.

DATED this 17th day of March, 2011.



Frank H. Seay
United States District Judge